

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

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THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN, JACKSON

JIMMIE HILL and BARBARA HILL,)

Plaintiffs,)

VS.)

No. 1-04-1151-T-An

JAMES BOWLES, CHIEF OF POLICE)
OF GIBSON, TENNESSEE, *et al.*,)

Defendants.)

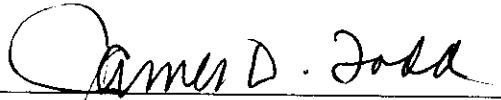
ORDER DENYING DEFENDANTS' MOTION TO DISMISS, AND/OR IN THE
ALTERNATIVE, A MOTION FOR SUMMARY JUDGMENT
AND
ORDER REQUIRING PLAINTIFFS TO FILE AN AMENDED COMPLAINT

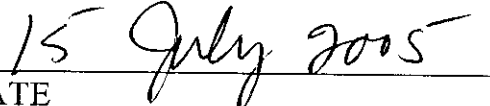
Plaintiffs Jimmie and Barbara Hill brought suit in the Circuit Court of Gibson County, Tennessee, against Defendants James Bowles, Gibson Chief of Police, Wallace Keymon, Mayor of Gibson, and the Town of Gibson, Tennessee. Defendants removed the action to district court, arguing that Plaintiffs' claims appeared to be brought pursuant to 42 U.S.C. § 1983 because their complaint alleged action under color of law and retaliation and sought attorneys fees as well as a jury trial.

Defendants filed a motion to dismiss pursuant to FED. R. CIV. P. 12(b)(6), and/or in the alternative, a motion for summary judgment under FED. R. CIV. P. 56(c). Plaintiffs responded; however, they did not address whether their claims were brought pursuant to §

1983. Consequently, the court ordered the parties to file supplemental briefs on the issue of subject matter jurisdiction. Plaintiffs filed a supplemental brief and stated that they were raising, among other things, a claim under § 1983. However, this brief was inadequate because it did not specifically state the constitutional violation alleged. Further, Plaintiffs' complaint is inadequate because it does not state the constitutional violation alleged and it fails to state the basis of Plaintiffs' retaliation claim. On the face of the complaint, it is not clear what Plaintiffs' actions were that prompted the alleged retaliation. As a result, Plaintiffs are ordered to file an amended complaint clearly stating the constitutional basis and the facts that support each element of the § 1983 claim. In addition, Plaintiffs are ordered to restate the remainder of their claims in a clear, concise fashion with specific allegations supporting each of their claims. Plaintiffs have twenty (20) days to file an amended complaint and Defendants have twenty (20) days to respond. Defendants' motion to dismiss and/or motion for summary judgment is DENIED without prejudice to refile after the filing of an amended complaint by Plaintiffs.

IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE


DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 29 in case 1:04-CV-01151 was distributed by fax, mail, or direct printing on July 20, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT